

TABLE OF CONTENTS

I. INTRODUCTION 1

II. BACKGROUND OF RELEVANT FACTS. 2

III. PLAINTIFF'S CLAIMS. 6

IV. STANDARD OF REVIEW. 7

V. ARGUMENT. 8

 A. As to the City & County of Honolulu,
 Honolulu Liquor Commission, and Dennis
 Enomoto, Count I of the Complaint must
 Be Dismissed as Plaintiff Has Not Alleged
 That His Constitutional Rights Were
 Violated Because of an Official City Policy
 or Custom, and There Is No Evidence of Such 8

 B. Wallace W. Weatherwax, John Carroll,
 Anna Hirai, and Allan Gaylord Are Entitled
 to Qualified Immunity on Plaintiff's
 42 U.S.C § 1983 Claims 10

 1. Count I Should Be Dismissed Because
 Plaintiff's Grand Jury Testimony Was
 Made Pursuant to His Official Duties
 as a Public Servant and Law Enforcement
 Official for the Honolulu Liquor
 Commission and Was Therefore Not
 Protected by the First Amendment 12

 2. There Is No Evidence That Any Alleged
 Retaliation or Adverse Employment
 Action Was Taken Against Plaintiff for
 His Participation in the Federal Bureau
 of Investigation's and Honolulu Police
 Department's Investigations into Alleged
 Corruption at the Honolulu Liquor Commission,
 Including Testifying Before the Grand Jury . . . 16

 C. Plaintiff's 42 U.S.C. § 1983 Claim must Be
 Dismissed Or, in the Alternative, That
 Summary Judgment Be Entered in Defendants'
 Favor 29

D.	Defendants are Entitled to Qualified Immunity for all State Tort Claims.	29
E.	Count II Should Be Dismissed as to All Defendants Because There Is No Evidence That Plaintiff Was Ever Retaliated Against by Any Defendants with Regard to His Compensation, Terms, Conditions, Location, or Privileges of Employment as Required by § 378-62, Hawaii Revised Statutes.	31
F.	Plaintiff's Negligent Supervision Claim (Count III) must Be Dismissed for Two (2) Reasons: (1) to the Extent That it Is Alleged Against His Employer, the Claim Is Barred by the Workers' Compensation Exclusivity Statute, and (2) to the Extent That the Complaint Alleges Liability Against the Employees of the Honolulu Liquor Commission for Their Actions Within the Scope of Their Employment, it must Be Dismissed as a Negligent Supervision Claim must Be Premised on Actions Outside the Scope of Their Employment	33
G.	Count IV Should Be Dismissed as There Is No Evidence Of Any Conspiracy to Retaliate Against Plaintiff	35
H.	Plaintiff's Wrongful Discharge Claim (Count V) Should Be Dismissed Because the Claim Is Embodied in Count I and Count II of the Complaint	36
I.	Count VI, Which Is a Claim of Intentional Infliction of Emotional Distress, Should Be Dismissed Because There Is No Evidence That Defendants Were Responsible for Any of the Allegations Including the Death Threats and Other Anonymous Activity Alleged by Plaintiffs, and Whatever Defendants Were Alleged to Have Done, Would Not Have and Did Not Cause Plaintiff Severe Emotional Distress.	37

J. Count VII must Be Dismissed as the City
and County of Honolulu and the Honolulu
Liquor Commission (Including Dennis Enomoto)
Because Punitive Damages Cannot Be Awarded
Against a Municipality. 38

K. There Is No Evidence of Retaliation and
Therefore Punitive Damages Are Unwarranted
Against Wallace Weatherwax, Anna Hirai,
John Carroll, and Allan Gaylord 39

VI. CONCLUSION 40